P12

G. R. S. IX-5]

Previous references.
Vol 15-14-3.

Later references.

Preserved

1916.17
(Police)

File No. S-3-16

Serial Nos. 1-2

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-2

Part B for Nov. 16

SUBJECT.

Withdrawal of the exemption under the Mysore Arms Regn. from Robert Rickee of the Bangalore City.

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2) To The Compiler, Mysore Gazette
for 1375 of 24/10/16

Notifies the above

25/11/16

W D 88—GPB—50,000—24-7-16

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G. R. S: 11] 1916-17

GENERAL AND REVENUE SECRETARIAT.

(Police)

NOTES.

File No. 53-16

FILE HEADING.

Withdrawal of the exemption under the Explosives Rules Regulation from Robert Rickie of the Bangalore City.

From

The J. A. Resident

No. 6607 Dated 18. 9. 16 Received 19. 9. 16

Diary No. 1675	Enclos. 2 Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards copy of the Govt. of India notification withdrawing exemption under the Explosives Act from Robert Rickie as also a copy of the order made by Mr. Col J.P. committing Rickie for trial to the Madras High Court & states that the Govt. of India withdraws the exemption enjoyed by Rickie on account of the circumstances set forth in the order of committal.

NOTES AND ORDERS.

D Seeing that Rickie was convicted by the Madras High Court it is a matter for consideration whether similar steps should not be taken in the matter by the Bangalore State. A draft notification is submitted for orders.

List I, 27

NOTES—First Sheet.

23.9.16

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General and Revenue Secretariat.

Pol File No. 53 of 1916.

Serial No.

2) The office has not been able to get any precedent for such a notification regarding the cancellation any such privilege in the case of European British Subject But as principle there is no objection for issuing a notification of the kind in question or have, for instance, cancelled the exemption granted in favour of Austrians and Germans.

Draft may be kindly approved.

Ramdayalu
27.9.

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Extraordinary Member Dewan } Draft approved by the Extraordinary member 29.9.16.

Dewan 29/9

1916
10.2.16.

Draft approved by Dewan.

Dewan 29/9

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dtes 19.10.16.

65 30/11

3) Dewan 8/10/16

2 To the compiler Jaipore Gazette

No. 1373 26-10-1916

Notifies the withdrawal of the exemption under the Jaipore Arms Regulation from Robert Rickie of the Bangoli

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NOTE—Contn. sheet

GPB—76,000—17-12-15

GEN. & REP. BRANCH
18 SEP 1916

No. 6607

From -

MAJOR T. H. ST. GEORGE TUCKER,
FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

Pol. 564
15.9.1916

DIARY No. J. 675

	19/6/17
SECTION	Police
FILE No.	53-16
	1

To

The Dewan of Mysore.

Dated Bangalore, 18th September 1916.

SIR,

I am directed to forward a copy of the Government of India (Home Department) Notification No. 747, dated the 22nd August 1916, withdrawing from Robert Rickie of Bangalore City, the exemption from the operation of the prohibitions and directions contained in sections 13, 14, 15, and 16 of the Indian Arms Act 1878 (xi of 1878) thereby made in favour of European or East Indian subjects of His Majesty the King Emperor and a copy of the order made by Mr. Cox, J.P. committing Rickie for trial by the High Court, Madras, This trial ended in conviction and on account of the circumstances set forth in the order of commitment, the exemption enjoyed by Rickie was withdrawn by the Government of India.

I have the honour to be,

Sir,

Your most obedient servant,

T. St. G. Tucker.

First Assistant Resident.

R. O. 2.—K. P. H.—6-1916.—1,000.

No. 747.

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

POLICE.

Simla, the 22nd August 1916.

NOTIFICATION.

7(W) In modification of entry (13) of Schedule I to the Indian Arms Rules, 1909, the Governor-General in Council is pleased to direct that the exemption from the operation of the prohibitions and directions contained in sections 13, 14, 15 and 16 of the Indian Arms Act, 1878 (XI of 1878), thereby made in favour of European or East Indian subjects of His Majesty the King Emperor, shall cease to extend to Robert Rickie of Bangalore city.

S. R. HIGNELL,

Officiating Secretary to the Government of India.

No. 748.

A copy is forwarded to the Hon'ble the Resident in Mysore for information with reference to his letter no. 5267-Gen.-2, dated the 26th July 1916.

No. 748.

A copy is forwarded to

the Foreign and Political / Army Department,

the Government of Madras, / Bombay, / Bengal, / the United Provinces, / the Punjab, / Burma, / Bihar and Orissa,

the Hon'ble the Chief Commissioner of the Central Provinces, / Assam,

the Chief Commissioner of Coorg, / Delhi,

the Hon'ble the Resident at Hyderabad,

the Hon'ble the Agent to the Governor-General in Central India,

the Hon'ble the Agent to the Governor-General in Rajputana,

the Hon'ble the Agent to the Governor-General and Chief Commissioner in Baluchistan.

the Hon'ble the Chief Commissioner of Ajmer-Merwara,

the Hon'ble the Chief Commissioner and Agent to the Governor General in the North-West Frontier Province,

His Britannic Majesty's Consul-General and Agent to the Government of India in Khorasan,

His Britannic Majesty's Consul for Seistan and Kain,

the Resident at Baroda,

the Political Resident in the Persian Gulf,

the Resident in Nepal,

the Resident in Kashmir,

the Inspector-General, Imperial Service Troops,

the Political Officer in charge of the *Ex*-Amir,

the Commandant, Imperial Cadet Corps,

the Political Officer, Sikkim,

the Director, Criminal Intelligence,

for information.

By order,

G. M. YOUNG,

Officiating Under Secretary to the Government of India.

369HD—962—25-8-16—GCBP Simla

In the Court of the 1st Class Magistrate and J.P. for Mysore Civil & Military Station, Bangalore.

P.R. No. 1/J.P. of 1915.

Rex vs. Robert Rickie.

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O r d e r.

1. Accused is charged by the Police Inspector, "A" Division, Bangalore City with three offences to wit offences punishable under Sections 225 B, 353 and 307 I.P.C.

2. Accused is a European named Robert Rickie, giving his age as 59, an Engineer, residing in Bangalore City in the State of Mysore.

I have jurisdiction over the accused as one of the Justices of the Peace for the State of Mysore.

3. I have enquired into the three offences at one and the same enquiry, as they all appear to form part of one and the same transaction as will appear below.

4. 6 witnesses have been examined for the prosecution, 4 other witness cited in the charge sheet have not been examined for reasons which I will state later on.

5. The chief witness is P.W. 1, Mr. C. Everard, an European Chief Inspector of Police, Bangalore City. His evidence is briefly as follows:-

on 9/11/15 he received an order from his Superintendent Ex.A dated 4/11/15 to attend to the requisition of the District Judge Bangalore Division. Copy of the requisition letter No. 1896/372 dated 1/11/15 - was forwarded to P.W.1 with his Superintendent's order. Copy of the District Judge's order dated 30/10/15 is also attached to Ex.A. According to his instructions P.W.1 was to give his assistance to the Amin entrusted with the arrest warrant issued by the Judge. Accordingly P.W. 1 arranged to meet the Amin P.W. 4 at accused's premises. As the Amin told P.W.1 that he had information that accused was armed with a revolver P.W. 1 went into accused's room first alone. He found accused sitting up on a cot. He explained that the Amin had come with a warrant of arrest. He then called the Amin who handed accused

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the warrant. Accused read it and threw it back to the Amin stating that the court had no authority to issue such an order. P.W.1 said that that was a matter between accused and the court, P.W.4 told him that he had a conveyance for him.

Accused thereupon took up one of the two revolvers which were beside him, pointed it at P.W. 1 and the Amin, who was just behind P.W. 1 and said "If you don't clear out I'll shoot".

The Amin took to his heels. P.W. 1 remonstrated with accused, but as accused still pointed the revolver at him, about 5 minutes after, P.W.1 left the room.

P.W. 5 - an advocate - had witnessed this occurrence and remained with accused after P.W. 1 left.

6. P.W. 1 went away, secured the assistance of a Head Constable, P.W. 6, and returned to accused's premises between 3-30 and 3-45 p.m. Leaving P.W. 6 outside the door P.W. 1 entered the room alone and found accused alone sitting as before on the cot. He told accused that he was alone and that he need not use a revolver or any thing of this kind. He asked accused if he could see a certain book which was on a small table near the cot. As he spoke to accused he suddenly seized on accused's hands from the front.

7. The cot was at the northern end of the room in the north eastern corner, a short distance from the north wall in which is a window. The head of the cot was east and the foot west. P.W. 1 had entered by the door in the middle of the eastern wall He had stood south of the cot. Accused was sitting about the middle of the bed, facing westwards. Against the west wall facing the cot, but projecting rather south of it was an almirah with 4 or 5 double panes of glass.

The situation is clearly seem from the plan, Ex. C prepared by the Inspector P.W. 2.

8. When P.W. 1 seized accused he failed to grip accused's right hand with his left. Accused then with his right hand seized one of the two loaded revolvers which lay by his side, by

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the butt, with his finger on the trigger. P.W. 1 seeing this let go accused left hand with his right hand and with it seized the barrel of the revolver. Accused then caught the revolver with both hands and P.W. 1 held the barrel of the revolver with both hands. While this was going on the Head Constable P.W. 6 entered the room and getting behind the accused held him from behind. P.W. 1 explains that at this time the revolver was infront of the accused on the bed. Accused was trying his utmost to point the revolver at him (P.W.1). P.W. 1 was trying to turn the barrel of the revolver northwards i.e. away from himself as well as away from the accused. P.W. 6 was pulling accused's wrist in a southerly direction, so as to turn the barrel northwards When accused thought he had the revolver pointed at P.W. 1 he pulled the trigger. The bullet passed between the index and middle finger of P.W. 1's right hand, then between his arm (left) and body and struck the almirah behind P.W. 1 at a spot estimated By P.W. 1 as about 8 inches higher than the level of the cot.

9. P.W. 1 says that after this, it struck him that accused finding he could not point the first revolver at him might try to seize the second revolver, so leaving go with his left hand for an instant he knocked the second revolver off the cot on to the floor.

After this P.W. 1 managed to wrench the first revolver out of accused's hands. Then he called the amin P.W. 4 who executed the warrant and took accused to the civil jail.

10. The only other eye witness to this second occurrence - I mean the struggle for the revolver and the shooting of the bullet is P.W. 6 the Head constable. He corroborates P.W. 1's account. He says he had one knee on the cot behind accused's back, and was holding accused's wrist.

An important exhibit in the case is M.O. 4 the bed sheet. This contains black marks caused by the smoke of the exploding bullet. There is a ~~xxakk~~ smoke mark caused by the exploding of the cap at the breach end, then a space equal to the length of the barrel 3 or 4 inches and than a large patch of smoke mark caused by the gas emerging from the muzzle. In my opinion the

revolver

revolver must have been turned with one side - the right side - lying on the sheet. It could not have been held with the trigger downwards in the usual firing position. But I do not think there is anything in the mark to disprove the statement of P.W. 1 that the muzzle was pointing a bit upwards. If it hit the almirah 8 inches above the level of the bed it must have had a certain elevation and it might have grazed the side of P.W.1's body, though I dont think it was even nearly pointing at any vital part of his upper body, which was I consider a good deal above the level of the revolver.

11. Accused's version of the affair is this. He says that on the first visit of P.W. 1 and P.W. 4 he examined the warrant and told P.W. 1 that it was illegal. P.W. 1 spoke about arresting him: accused said "If you use force I can do the same". Saying this he picked up a revolver and raised it up and down on the bed without aiming at any one.

12. As regards the second visit :- P.W. 1 seized his wrists and threw him on his back across the bed, i.e., with his head towards north, at the end of the cot. The 2 revolvers were on a stool north of the cot. The back of his right hand touched one of the revolvers. He turned his hand and lifted it off the stool P.W. 1 grabbed it. As he did so he knocked the second revolver off the stool. P.W. 6 then came in and held accused's left hand of which P.W. 1 then let go. P.W. 1 already had his left hand over the barrel and having left ago of accused's left hand, put his right hand over the revolver over the chamber portion. As he did this one of his fingers touched the trigger and the revolver went off. After he (P.W.1) had fired, he (accused) put his finger through the guard over P.W. 1's finger and held it tight to prevent the weapon from being recocked. At the time of firing, his right hand was half stretched out at right angles to his body flat on the bed. He had no intention of shooting any one.

13. This version is at present unsupported by any evidence. It is obviously entirely opposed to the version of the 2 police

officers

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officers. I can see no reason to give the benefit of the doubt to the accused. There is no prima facie preference in favour of accused's version. His statement for instance that he did not aim the revolver at P.W. 1 on his first visit is disproved by the evidence of the P.W. 5, the advocate, who supports P.W. 1 and P.W. 4 in this respect. His statement on 10-1-16 that P.W. 1 pushed the second revolver down before the first one went off seems to be opposed to his statement in his bail application dated 28-12-15 that when he "surrendered" the first revolver he could have "seized upon the second which was within his reach". Had it been on the floor then he could not have reached it.

14. Besides the evidence of P.W's 1 and 6 there are 2 considerations which support the supposition that accused intended to shoot. One is accused's threat on the occasion of the first visit. Whether he said 'If you don't clear out I'll shoot' as stated by P.W.'s 1 & 4 or whether he said "If you use force I can do the same" as he admits, the meaning is the same. He couldn't have meant that he would hit the Inspector with the butt end of the revolver or throw it at him. He must have meant he would shoot at him. The other is accused's continuous attitude of defiance to the orders of the District Court and the officers sent to enforce them.

15. P.W. 3 a clerk in the District Judge's court has produced all the records in O.S. No.9/12-13 connected with the case. These records shew that so long ago as 1-8-13 accused was ordered by the Judge to leave the premises.

On 30-5-14 another order was issued to him to vacate.

On 3-2-15 the plaintiff reported accused's disobedience to the orders of the Court.

On 5-2-15 the court ordered accused to appear on 19-2.

On 19-2-15 accused sent a petition to the effect that he could not move.

On 8-3-15 an arrest warrant was issued.

On

On 19-3-15 the Amin reported that accused refused to move
On 26-3-15 the court issued notice to accused to produce a medical certificate.
On 29-3-15 the Process server reported that the accused refused to accept the notice or to produce a medical certificate.
In my opinion these are sufficient grounds for committing accused for trial on a charge of attempt to murder - Section 307 I.P.C.

16. With regard to the other 2 offences under sections 225 B and 353 accused's defence is that the warrant of arrest was illegal, as were also all the documents produced from the District Court. The question whether the District Court had jurisdiction over the accused in the matter of the partnership suit or not has not been argued before me. In fact the allegation, that it had not, was only made before me in accused's supplementary statement dated 15/1/16.

17. The learned Counsel for the accused had confined his remarks to the legality or otherwise of the arrest and warrant and committal order Ex.D.

It is true that the arrest warrant accompanying Ex.D. is not on a printed form, but Section 74 of the Civil Procedure Code as well as order 40 rule 1 and order 21 rule 98 provide for the committal of a defendant to Civil Jail for 30 days and I fail to see how a person can be so committed without being arrested. I cannot therefore see any reason to hold that the warrant and Ex. D. were illegal. It appears to me that there are sufficient reasons to think that accused has committed offences triable under Sections 225 B and 353 I.P.C.

18. Finally I must mention that there are 4 witnesses cited in the Charge Sheet whom I did not think it necessary to examine in this preliminary enquiry. Of these Nunjundiah merely heard the report of the revolver from outside, Rama Rao only speaks to the drawing up of a Mahazar and Kesava Rao was to speak of the purchase of two revolvers by the accused. Such evidence seems to me unnecessary. The Prosecuting Inspector strenuously urged

that

that the 4th remaining witness Mr. Sesha Char, the receiver appointed by the District Court should be examined. He would prove, it was asserted, accused's continued obstruction to the Court's Orders. I do not think his examination necessary. In para.15 above I have described the various proceedings of the Court, etc. These are sufficiently proved by the signature or seal of the Judge and the reports dated 19-3-1915 and 20-3-1915 are reports of the Court Amin and not the receiver.

I think it superfluous to add to the record any oral evidence of the receiver.

19. For the above reasons, I hereby commit the accused for trial by the High Court, Madras, on the charges framed by me, viz., Section 307 I.P.C. which is exclusively triable by that Court and Sections 225 B and 353 I.P.C. which I consider should be tried by that Court.

Until the trial, accused is committed to custody under Section 220, Criminal Procedure Code.

Sd/- A. R. Cox,
1st Class Magistrate and J.P.
19-1-1916.

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"C o p y"

Registrar, Resident's office.

Police-53-16-2.

21/10

T. 238.
Translated
28.10.16.

Notification

No. J 1375 G/- 24th October 1916.

The Govt. of H.H. the Maharaja are pleased to direct that the exemption from the operation of the prohibitions and directions contained in sections 8, 9, 10 and 11 of the Mysore Arms Regulation, 1890, issued by Rule 1, clause 3 of the Mysore Arms Rules in favour of European or East Indian subjects of His Majesty the King Emperor may shall cease in relation to Robert Rickie of the Bangalore City.

Signed by Mr. D. M. Narasinga Rao.

By Order

Sd. V.P.
Asst. Secy. to Govt.
Gl. Dept.

19.10.16
Ab

Draft
29.9.16.

To The Compiler Mysore Gazette for publication

BS
23.9.16.